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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirtieth session

SUMMARY RECORD OF THE 544th MEETING

Held at Headquarters, New York,
on Tuesday, 2 April 1991, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

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Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.40 a.m.

PARTICIPATION OF NON-MEMBER STATES IN THE WORK OF THE SUBCOMMITTEE

1. The CHAIRMAN informed the members that he had received a communication from Yemen stating that Yemen wished to participate in the work of the Subcommittee. Inasmuch as the granting of observer status was a prerogative of the parent committee, the Subcommittee did not need to take any formal decision on the matter. However, he suggested that, in accordance with the practice followed in recent years, the representative of Yemen should be authorized to attend the formal meetings of the Subcommittee and, if he wished to make a statement, to request the floor. If he heard no objection, he would take it that the Subcommittee agreed to the request.

2. It was so decided.

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (continued)

3. Mr. KHABIROV (Union of Soviet Socialist Republics) welcomed the establishment of a new Working Group on agenda item 5 and expressed the hope that it would help the Subcommittee to consider the issue as thoroughly as possible. Work in that area should be directed towards strengthening the legal basis for international cooperation in space. His delegation believed that the vast majority of the members of the Subcommittee shared that viewpoint, and the debates of the preceding session had confirmed that opinion. The views expressed had certainly been varied, and a broad range of approaches to the issue had been taken, but the general tone of the discussion had been quite clear: new ways of developing international cooperation in space must be sought, and the legal regime for that cooperation must be refined. That exchange of views and ideas gave him reason to hope that the Subcommittee was about to embark on a constructive process that would lead to the resolution of the concrete problems posed by the definition of norms and their codification.

4. With respect to the substance of the work of the current session, it evidently must be recognized that by its very nature, the Legal Subcommittee was called upon to resolve problems of a legal character. Of course, the law-making process was not isolated from the concrete realities of politics and economics. However, precisely in the interest of developing international cooperation in the peaceful uses of outer space, and given the need to regulate such cooperation by means of legal principles, his delegation thought that the Subcommittee should concentrate primarily on the legal content of its agenda.

(Mr. Khabirov, USSR)

5. In that context, he pointed out that the principle mentioned in the title of the agenda item was directly linked to the principle of cooperation and mutual assistance laid down in article IX of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. It was therefore important to concentrate on the definition and refinement of the aspects relating to international law and also the organizational and technical aspects of international cooperation in outer space. Only then could the Legal Subcommittee's work in that important area proceed along practical lines. The Soviet Union believed that the forthcoming debates of the Subcommittee and of its Working Group would be useful and constructive and that they would lead to a better understanding of the problems currently before those bodies in the area of cooperation, as well as of the political means and the methods available under international law to solve them. In that regard, the Subcommittee should analyse and interpret all aspects of issues concerning broader participation in space activities by all interested States, especially developing States, and the introduction and development of bilateral and multilateral cooperation in the area of space exploration and utilization.

6. With respect to the concrete proposals put forth at the preceding session by a number of delegations contained in the Working Group's report to the Subcommittee, his delegation wished to point out that it had transmitted the proposals to the appropriate Soviet institutes and agencies. To supplement the information communicated regularly to the United Nations regarding the areas of space exploration and utilization in which international cooperation could be expanded, his delegation thought it would be useful to outline for the participants at the current session a number of new ideas and proposals, which were still provisional, put forth by Soviet institutes and agencies having competence in the matter; it intended to do so at a later stage, within the Working Group.

7. The Soviet Union hoped that mutually beneficial relations of cooperation in the area of outer space would develop as quickly as possible and that States would unite their efforts in the exploration and peaceful uses of outer space, for the benefit and in the interests of all States. To that end, the Soviet Union had signed three new bilateral intergovernmental agreements since the preceding session, bringing the number of such agreements to which it was a party to about a dozen. The conclusion of agreements of that type between Governments provided for a higher level of cooperation in space activities and a solid foundation in international law for the establishment and development of cooperation in the peaceful conquest of space. As Australia, Brazil and some other countries had stated in the Working Group, such agreements could also be of interest to the Working Group in its efforts concerning the new agenda item.

8. Mr. SCHÄFER (Germany) recalled that after the introduction of agenda item 5 in 1988, the Subcommittee had decided by consensus that consideration of the item should involve four steps. Following the consideration of

(Mr. Schäfer, Germany)

national legal frameworks (first step) and of relevant international agreements (second step), the information thus obtained would be reviewed by a Working Group; that Group had been established at the start of the current session and would continue its considerations until the Subcommittee concluded that the substantive deliberations had produced a satisfactory result.

9. Germany had participated in the first and second steps by submitting a report on the current status of its domestic space law and on its cooperation activities. It had also presented a compilation of national and international space law which emphasized the particular importance Germany attached to the work of the Subcommittee in that respect.

10. The basis for all outer space activities, particularly with regard to international cooperation, was laid down in the 1967 Outer Space Treaty. Germany was a party to that Treaty, as well as to the Convention on International Liability for Damage Caused by Space Objects, the Convention on Registration of Objects Launched into Outer Space and the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space. It also considered that the Principles Relating to Remote Sensing of the Earth from Outer Space accurately reflected the current status of international law in that respect.

11. Germany particularly relied on the aforementioned multilateral agreements in the regulation of its national space activities, which were mainly governmental activities. The administration of space activities in Germany had been fundamentally restructured in 1989, when the German Space Agency (DARA) had been established as the central agency with management responsibilities for national space activities. To date, no space activities had been undertaken by private entities. In consequence, there was currently little need for Germany to add to its national space law.

12. Germany had always been eager to participate in international cooperation in space by means of specific arrangements. Thus, it participated in European cooperation in space through the European Space Agency (ESA). One of the highlights of that participation undoubtedly had been the signing of the space station agreement concluded among the member States of ESA, Canada, Japan and the United States.

13. In addition, Germany had a long tradition of cooperation with developing countries on the basis of bilateral agreements. For example, it had concluded agreements with Argentina and Brazil on cooperation in scientific research and technological development. Several projects were currently under way in the context of those agreements, including remote-sensing projects on cloud observation, climate change and the design of a multispectral scanner.

14. Moreover, an agreement on scientific and technical cooperation had been concluded in 1979 with the People's Republic of China, and a special agreement

(Mr. Schäfer, Germany)

on civil space research between the German Aerospace Research Establishment and the Chinese Academy for Space Technology had been signed in November 1984. Six of the projects which had been undertaken in pursuance of that agreement since 1988, concerning structural mechanics, remote sensing and space flight dynamics, had already been completed.

15. Germany had also concluded two general agreements with India, one on cooperation in the peaceful uses of nuclear energy and space research and the other on scientific research and technological development. A special agreement between the Indian Space Research Organization and the German Aerospace Research Establishment on cooperation in space research and technology, concluded on 12 August 1974, constituted a framework for further bilateral cooperation between the two countries. Two noteworthy projects carried out under those agreements had concerned, respectively, a monocular electronic-optical stereo scanner (MEOSS) and an airborne 90-GHz radiometer (ABREX).

16. Two agreements concluded with Indonesia deserved particular attention: the framework agreement of March 1979 between Germany and the Republic of Indonesia on cooperation in scientific research and technological development, and the special agreement of April 1980 between the Indonesian National Institute of Aeronautics and Space and the German Aerospace Research Establishment on cooperation in the fields of satellite communication, remote sensing and wind energy.

17. Thus, Germany had a long-standing and fruitful tradition of bilateral cooperation with developing countries. The bilateral cooperation agreements to which he had referred bore witness to Germany's implementation of the principle of cooperation laid down in the 1967 Outer Space Treaty. The reunified Germany would continue that tradition.

18. Mr. SOETJIPTO (Indonesia) said that as the Committee on the Peaceful Uses of Outer Space was a unique multilateral forum entrusted with the weighty mandate of preserving outer space for peaceful activities for the benefit of mankind, the Legal Subcommittee should continue to build upon previous accomplishments to give greater clarity and substance to the legal aspects of the concept of international cooperation in outer space for the benefit of all countries, in particular the developing countries.

19. It should be recalled that the agenda item had first been proposed by the Group of 77 during the Subcommittee's twenty-fifth session. Indonesia, as a developing country with an advanced space programme, had supported the proposal because it was both timely and relevant to the needs and interests of developing countries. That was particularly apparent in light of the pressing need for those nations to enhance their capabilities to establish their own space programmes in accordance with their respective national goals. In that respect, Indonesia believed that the drafting of a legal instrument concerning international cooperation should guarantee greater access to the scientific

(Mr. Soetjipto, Indonesia)

and technical benefits of space activities. That approach alone would ensure equity in the availability of information and knowledge, as well as equitable access to technical assistance, whereby the application of space science and space-related activities would play an essential role in facilitating global development, especially in the developing countries.

20. Thus, the establishment of such a legal framework would serve to close the gap between existing space law and technological developments. The Working Group could make significant contributions in that effort, in order to assure greater equity, harmonization and equality among States.

21. Mr. MEHRA (India) said that agenda item 5 was of particular significance and practical value to developing countries and that the Subcommittee should give it priority. His delegation therefore welcomed the establishment of a Working Group on the item, which would provide an opportunity for constructive debate and would play a valuable role in the realization of the objectives under the item.

22. In recent years, the utilization of space and the application of space science and technology to various spheres, including communications, meteorology and remote sensing, had progressed beyond all expectations, creating new prospects for the development of humankind in general. Those applications were of particular benefit to developing countries, but unfortunately, since the adoption of the 1967 Outer Space Treaty, under which outer space was to be used for peaceful purposes and in the interests of all States, only a handful of developed States had reaped the benefits of space activities. A chasm had therefore appeared between the developed and the developing countries in what should have been an endeavour undertaken for the common good. Developing countries seeking to enhance their capabilities in outer space and to apply them to their peaceful development needs continued to encounter such obstacles as the lack of training facilities and restrictions on the exchange of technical information and the supply of equipment and components, even for peaceful applications.

23. There was a need, therefore, to identify why the principle had not been applied, to examine ways and means of correcting that inequality and gradually to perfect mechanisms to promote greater international cooperation. One possible approach to the problem was a critical analysis of relevant national laws, of the conventions in force and of bilateral and multilateral agreements. That would facilitate the identification of areas in which such instruments had promoted common objectives, those in which improvements were necessary and those in which various obstacles hindered the implementation of article I of the 1967 Outer Space Treaty. Such an analysis would enable the Legal Subcommittee to consider and develop the legal machinery and instruments required to translate that principle into practical terms, taking into account the needs of developing countries.

(Mr. Mehra, India)

24. Agenda item 5 dealt with an issue of great practical significance. In considering the item, the members of the Subcommittee should adopt a constructive approach and should resolve any problems that might arise in a spirit of compromise. The developed and the developing countries should unite their efforts to ensure that outer space would be explored and utilized in the interest of all mankind and to strengthen internatioanl peace and security. Genuine international cooperation would provide the normative core around which the objectives of the agenda item must be developed and could be realized.

25. Mr. YOUNG (United Kingdom) said that his country continued to be an active participant in the multilateral legislative process for outer space activities. The United Kingdom had ratified the 1967 Outer Space Treaty, the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, the Convention on International Liability for Damage Caused by Space Objects, and the International Convention on Registration of Objects Launched into Outer Space. In addition, the United Kingdom had a vital programme of cooperative activities conducted on both multilateral and bilateral bases, with, for instance, India, China and the Soviet Union. Furthermore, its Overseas Development Agency administered government-funded aid projects in developing countries around the world. A significant number of those projects involved the utilization of British space technology and expertise, through contracts engaging British firms to perform such work in the recipient developing countries. That was a concrete expression of the United Kingdom's undertakings under article 1 (1) of the 1967 Outer Space Treaty. In addition, the Committee for Earth Observation Satellites, of which the United Kingdom was a member, was currently developing a policy for distributing satellite data on the global environment to developing countries. In view of the foregoing, his delegation saw no need at the moment to legislate for activities which were already occurring widely in a voluntary manner.

26. Turning to the organization of the Legal Subcommittee's work, he welcomed the measures adopted at its twenty-ninth session to improve its utilization of conference services and the efficiency of its work. On that point, his delegation had long been of the view that the session of the Subcommittee could be reduced from three weeks to two without an adverse effect on consideration of all the items on its agenda. It also saw no discernible benefit in alternating the meetings of the Subcommittee between New York and Geneva; that was actually an exception to the General Assembly principle that United Nations bodies should meet at their headquarters, it deprived the Subcommittee of all the back-up services and resources in New York, and it complicated attendance at Subcommittee meetings by representatives of the permanent missions established in New York. Given the relatively light agenda in recent years, it was difficult to justify on any objective basis a session that was a week longer than that of either the Scientific and Technical Subcommittee or the plenary Committee itself. Furthermore, the current practice of spending equal time on agenda items regardless of their content or the likelihood of consensus was questionable.

(Mr. Young, United Kingdom)

27. His delegation also questioned whether it was still appropriate for the Legal Subcommittee to continue to enjoy the benefit of summary records - which cost approximately $670 a page - when other committees, such as the Scientific and Technical Subcommittee - did not enjoy such benefits. Such other committees seemed to function very well with only a report, and his delegation could not see that the work of the Legal Subcommittee was qualitatively so different from that of the others to justify the special treatment.

28. Mr. KHABIROV (Union of Soviet Socialist Republics) thanked the German delegation for the information it had given and especially for the list of instruments and agreements concluded between Germany and other countries in the area under consideration. To complete that list, his delegation wished to inform the Subcommittee that in October 1988, the USSR Academy of Sciences and the German Ministry of Research and Technology had concluded an Agreement on scientific and technical cooperation in the exploration and peaceful uses of outer space. Under the terms of that Agreement, the Parties undertook to cooperate in the field on the basis of reciprocity and equality. The cooperation would centre particularly on manned and unmanned flights and on various activities such as space biology and medicine, astronomy, astrophysics, or the study of microgravity. Arrangements for an initial cooperation programme had been concluded pursuant to the Agreement.

29. On the question of the Legal Subcommittee's methods of work just raised by the representative of the United Kingdom, he did not believe that it was relevant to the agenda item under consideration. He wished none the less to emphasize that the Soviet Union was opposed to reducing the length of the Legal Subcommittee's session. Such a reduction would affect the substance of the Subcommittee's work, cause the legislative process to regress, and slow down the progressive development of international space law. His delegation could not endorse such an approach, and it believed, furthermore, that the principle of alternating the Subcommittee's sessions between Geneva and New York should be maintained. As for the summary records, it recalled that the Subcommittee was a legal body and as such could not be put on the same plane as the Scientific and Technical Subcommittee. All jurists knew how important travaux préparatoires were. His delegation thought the summary records belonged to that category of documents, and that the Legal Subcommittee could therefore not do without them. It reserved the right to make a more in-depth statement on the matter at a later time.

30. His delegation had listened with interest to the statement of the representative of the International Astronautical Federation, who had informed the Subcommittee that establishments in three countries, Germany, the United States and the Soviet Union, had drawn up a draft convention on manned flights. He would like the representative of the International Astronautical Federation to provide some elucidation of the main provisions of that text.

31. Mr. BOYER (France), speaking in exercise of the right of reply, said that, while the Subcommittee's methods of work could certainly be improved, the manner suggested by the United Kingdom representative was perhaps not the best. Reiterating the comments he had made on the matter the previous year in response to a similar proposal by the United States delegation, he observed that both the United States delegation the year before and the United Kingdom delegation now had referred to a recommendation on the need to coordinate and rationalize the work of the Subcommittee. It should be remembered that the same recommendation stipulateld that in doing so account should be taken of the decision that Geneva and New York must alternate as the venue for meetings of the Legal Subcommittee.

32. Furthermore, the United Kingdom representative had spoken of savings but had not provided any figures. Lastly, to repeat what the Soviet representative had just said, it was a question not of the Scientific and Technical Subcommittee but of the Legal Subcommittee, and the latter could have reasons, and good ones, for meeting in Geneva. It should be recalled that both the United Nations Office at Geneva and the permanent missions of all countries were established in Geneva, and he saw no reason, in view of the pertinent texts on the matter, to discontinue the practice of alternating sessions between Geneva and New York.

33. Mr. ZAWELS (Argentina), speaking in exercise of the right of reply, referred to the remarks of the United Kingdom representative on the Subcommittee's organization of work and its under-utilization of the time and resources allotted to it. It would be interesting to ask the Secretariat to provide statistics on the utilization of resources and also to ask what had been the United Kingdom representative's criteria in affirming that the Subcommittee had not used its time effectively. That was not at all the impression he himself had had.

34. Regarding the substantive question, the effectiveness of the Subcommittee's work could not be judged solely on the basis of statistics, but by taking account of the objectives and legal results of its work. The Legal Subcommittee was working on drafting legal provisions governing space activities, and the time it devoted to them should therefore correspond to the importance of the questions it was considering.

35. Mr. MOTSYK (Ukrainian Soviet Socialist Republic), speaking in exercise of the right of reply, said that he did not share the view that the Subcommittee's session should be reduced to two weeks. At least three weeks were needed to achieve results on the legal basis for international cooperation on space activities. Furthermore, he thought it was extremely important to have summary records, because they were essential to the accomplishment of the Subcommittee's tasks.

36. Ms. SIEGEL (United States of America), speaking in exercise of the right of reply, said that she agreed with the United Kingdom delegation that less time should be allotted for the session of the Subcommittee and strongly supported the proposal to hold the meetings of the Subcommittee solely in New York, for reasons of economy, efficiency and communication.

37. Mr. HIENSCH (Netherlands), speaking in exercise of the right of reply, wished to state officially his support for the statement of the United Kingdom delegation. He too favoured shortening the session of the Subcommittee to two weeks.

38. Mr. GONZALEZ (Chile), speaking in exercise of the right of reply, was surprised that some delegations were speaking of restructuring and shortening the Subcommittee's meeting time when the Subcommittee was meant to be considering agenda item 5. He did not see why the Scientific and Technical Subcommittee should take time from work to view audio-visual presentations and to engage in discussion even as it claimed to be reducing the time that would be spent on the matter by the Legal Subcommittee, which was working on substantive questions so as to lay the groundwork for international cooperation in the new field of outer space, where it was essential for all countries to have access to the latest technology. The task was a difficult one and required serious effort, and great care must be taken with the substantive questions.

39. Some had said that the length of the session should be cut, but without giving good reasons. By so doing, the Subcommittee would be in danger of giving the false impression that it had not sufficient legal matters for study, whereas putting in place a legal framework for space activity was of fundamental importance. He insisted therefore that the Subcommittee should meet for at least three weeks as it would otherwise not be able to deal effectively and usefully with the task at hand.

40. Mr. ALZATE (Colombia), speaking in exercise of the right of reply, endorsed the statements of the representatives of Chile and Argentina. In gauging the progress accomplished by the Subcommittee, it was necessary to consider quality and not just quantity. His delegation was in favour of keeping the length of the session at three weeks. Moreover, it would be useful to schedule the meetings in such a way that the Subcommittee would not be meeting at the same time as other bodies studying similar questions, for instance the law of the sea, as that would make it difficult for some delegations to participate. The alternation between Geneva and New York was an established practice that should be maintained.

41. Mr. DA COSTA E SILVA NETO (Brazil), speaking in exercise of the right of reply, supported the statement of the Chilean representative, for any judgement of the effectiveness of the Subcommittee's work could not be based on procedure but rather on the discussion of the substantive issues. He also wished to put on record his support for the retention of summary records so that delegations' views on the questions examined in Subcommittee would be duly noted.

42. Mr. OBAKPOLOR (Nigeria), speaking in exercise of the right of reply, agreed with the delegations that had spoken against shortening the Subcommittee's session, since it must reach practical solutions to the important and delicate problems it was dealing with, and so needed the three weeks.

43. Mr. BASAVE (Mexico) asked the Chairman to invite members of the Subcommittee to confine their remarks to the item under study, namely, item 5, since, however interesting it might have been, the discussion that had just taken place had been beside the point.

44. The CHAIRMAN explained to the representative of Mexico that the delegations that had spoken after the United Kingdom representative had done so in exercise of the right of reply.

45. Mr. SCHAFER (Germany), referring to the list of parties to the multilateral intergovernmental agreements distributed that day by the Secretariat at the request of the United States delegation, was glad the list had been drawn up and thought it worthwhile, but felt obliged to point out that it was not up to date, particularly with respect to the participation of Germany. The list was therefore an unofficial one only, without any legal standing whatever.

46. Mr. GOROVE (International Astronautical Federation), recalled that he had mentioned the previous day in passing the draft Convention on Manned Space Flight and said that he would go over its main points in response to a request from the representative of the Soviet Union.

47. The draft Convention resulted from a cooperative effort by three institutions, in Germany, the Soviet Union and the United States, and it had been early decided that, instead of drafting a purely academic instrument, an attempt would be made to draft a text that would not only deal with some of the major issues needing clarification, but also take into account practical feasibility, even if that meant concessions by the cooperating institutions on certain issues. As previously indicated, the present text, which was the seventh draft, contained several provisions that represented a compromise among the different points of view, but that was normal in any international drafting. By the same token, it could be expected that reactions after the presentation of the draft Convention would be mixed. The drafters' primary objective was to initiate and promote international discussions in appropriate forums in the hope that eventually they would lead to negotiations between interested States, either in the United Nations Committee on the Peaceful Uses of Outer Space or elsewhere.

48. More generally, the present text of the draft Convention contained a number of pertinent provisions, but the legal regime applicable to manned space flight remained relatively uncertain on a few points.

(Mr. Gorove)

49. The main provisions of the draft were the following. In article I, Definitions, a few new and useful ideas were reflected in the definitions of "manned space object", "manned space flight", "international manned space flight", and even "crew".

50. Article II, Registration, was relatively faithful to the provisions of the Convention on Registration of Objects Launched into Outer Space. Article III, Jurisdiction and control, was fairly closely modelled on the 1967 Outer Space Treaty. Article VII, Responsiblity and liability, took its inspiration both from the provisions of the Outer Space Treaty and those of the Convention on International Liability for Damage Caused by Space Objects.

51. Article VIII, Intellectual property, took its definitions from the Convention establishing the World Intellectual Property Organization. Article V, which was about ensuring safety, dealt also with the efforts being made to avoid harmful space debris, pollution, contamination and harmful changes in the environment of the Earth, and with the feasibility of appropriate measures. The information gathered would be made available to the Secretary-General.

52. With respect to mutual assistance in space, article VI of the draft Convention went a little farther than the Outer Space Treaty and the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space. Article IV, Rights and obligations of persons on manned space flight, set out the chain of command for activities aboard manned spacecraft.

53. Article IX, Consultation and settlement of disputes, referred to an arbitral tribunal, to be appointed in the same manner as was provided for the Claims Commission in articles XV to XVII of the Convention on International Liability for Damage caused by Space Objects.

54. Article X, Application to international organizations, contained the provisions usually found in the principal treaties on outer space. Article XI, Concluding provisions, was as yet unfinished.

55. In short, everything possible had been done to harmonize the draft Convention with existing international space law as represented by the principal space agreements, but with a few new provisions. He hoped that the text would give rise to an international debate, and that the Legal Subcommittee would itself wish to examine it a little more closely.

The meeting rose at 11.55 a.m.

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The meeting was called to order at 10.45 a.m.

PARTICIPATION OF NON-MEMBER STATES

1. The CHAIRMAN informed the Subcommittee that he had received from Cape Verde a communication in which it asked to participate in the meetings of the Subcommittee. If he heard no objection, he would take it that the Subcommittee authorized the representatives of Cape Verde to attend the formal meetings of the Subcommittee and to ask for the floor if they wished to make a statement.

2. It was so decided.

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (continued)

3. Mr. KOPAL (Czechoslovakia) said that the Subcommittee's consideration of the new agenda item should lead to the strengthening of international cooperation in the exploration and peaceful uses of outer space and that he hoped specific areas would be identified in which such cooperation could be developed. The views expressed during the debate by representatives of developing countries should be further elaborated in a working paper in which certain concepts, such as that of access to the benefits of space exploration, would be clarified, and in which representatives of the space Powers would have an opportunity to present their views on the issue.

4. His delegation was very sensitive to the need to protect the outer space environment from all forms of pollution, particularly the proliferation of space debris. That concern was shared by the world scientific community, as evidenced by the work of the International Astronautical Federation (IAF) and the Committee on Space Research (COSPAR), as well as by recent studies conducted by such bodies as the United States National Security Council's Inter-Agency Group and the European Space Agency (ESA). Those discussions and studies highlighted the need to take preventive measures in that area and to pay close attention to the legal aspects of the problem of space debris. Thus, for example, the International Law Association was currently considering a draft international instrument on the environmental risks arising from activities in space. Finally, it should be recalled that in its resolution 45/72, the General Assembly had recommended that more attention should be paid to all aspects related to the protection and the preservation of the outer space environment and had expressed the view that space debris could be an appropriate subject for discussion by the Committee on the Peaceful Uses of Outer Space in the future.

5. His delegation believed that the problem of space debris must be addressed without delay and that the parallel discussions of the two

(Mr. Kopal, Czechoslovakia)

Subcommittees should prepare the way for the adoption of appropriate measures in the near future.

6. Mr. ZAWELS (Argentina) said that bilateral agreements on cooperation in space, which provided an opportunity for many developing countries to familiarize themselves with the applications of space technology, played an essential role in the development of international cooperation in that area. In that respect, it was important to identify the general principles under which all States, and particularly developing countries, would be assured access to the space technology market under equitable and non-discriminatory conditions. As applied to international cooperation in space, the principle of equity required that certain advantages should be accorded to those who were less advanced in the area of space activities. Non-discrimination meant that all countries which were at the same stage of development should have comparable opportunities to familiarize themselves with space technology.

7. His delegation believed it was essential for the Subcommittee to define a legal regime under which the conditions for the transfer of space technology could be determined objectively, instead of being determined unilaterally and arbitrarily by equipment manufacturers and providers of space services. Those were some of the ideas put forward in a working paper to be presented to the Subcommittee by a group of delegations in the near future.

8. Mr. MOTSYK (Ukrainian Soviet Socialist Republic) welcomed the establishment of a Working Group on agenda item 5. The work done under that item should aim to strengthen the legal bases and to develop international cooperation in the area of the exploration and peaceful uses of outer space. To that end, specific areas for the development of cooperation could be defined and an agreement could be reached on the modalities of cooperation in each of those areas, with emphasis on the needs of developing countries, as stipulated in the title of the agenda item.

9. With respect to the legal aspects related to the application of the principle mentioned in the item, his delegation agreed with a number of other delegations that they were directly linked to article IX of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (1967 Outer Space Treaty), which laid the bases for the exploration and peaceful uses of outer space. The Ukrainian SSR was a party to that treaty and to various other relevant international instruments.

10. As noted inter alia by the Czechoslovak delegation, it was useful to include in the debate on item 5 considerations relating to environmental protection, particularly with respect to the problem of space debris. International law relating to the environment already included well-established norms that could be used. Moreover, it was important to consider the interests not only of present but also of future generations. The proposal concerning the construction of an international space laboratory

(Mr. Motsyk, Ukrainian SSR)

or manned space station for monitoring the environment was interesting in that regard. His delegation also supported the proposal of the Group of 77 concerning cooperation with the Scientific and Technical Subcommittee in the deliberations on the item. Ukrainian experts were participating actively, with both developed and developing countries, in international scientific and technical cooperation in the field of space.

11. At the Scientific and Technical Subcommittee's 1991 session, the Ukrainian delegation had presented a proposal concerning the establishment of a world-wide system for the seismological monitoring of the Earth and the prediction of earthquakes, in which the Ukrainian SSR was expected to play an active role. Given the devastating effects of earthquakes, that issue was of the greatest importance for all countries, both developed and developing. The Scientific and Technical Subcommittee would continue its consideration of that proposal at its next session.

12. Finally, his delegation felt that mutually beneficial cooperation in the area of outer space should be broadened and that th efforts of developed and developing countries should be united in the exploration and peaceful uses of outer space and in the elaboration of sound legal bases for such cooperation.

13. Ms. VENTURINI (Italy) recalled that Italy had incorporated into its legislation a number of multilateral agreements governing international cooperation in the exploration and utilization of outer space for the benefit of all countries. Moreover, Italy was a member of, and an active participant in, the work of several organizations, including the International Telecommunication Union (ITU), the International Telecommunications Satellite Organization (INTELSAT), the International Maritime Satellite Organization (INMARSAT) and the European Telecommunications Satellite Organization (EUTELSAT) and ESA.

14. At the national level, in 1988, Italy had reorganized its space-related activities into the Italian Space Agency. That new entity should help Italy to enhance its role in the field of outer space research and to involve developing countries in new initiatives.

15. Outer space activities were already having numerous spin-off benefits for all States in such areas as meteorology and agriculture. The smooth operation of free markets, in the context of bilateral and multilateral cooperation, offered the best opportunity for developing countries to benefit from outer space activities. Italy had concluded with those countries a large number of bilateral agreements on scientific and technical cooperation, which often constituted the basis for international joint ventures. Such joint ventures between the industrialized space Powers and the developing countries should help the latter to improve their capabilities in space science and technology. In addition, treaties on the protection of foreign investments could play a useful role in the development of space activities jointly undertaken by industrialized and developing countries.

16. Mr. HERNANDEZ BASAVE (Mexico) said that the working group on the new agenda item should focus on drafting a legal framework that would guarantee all States, developing countries in particular, access to theoretical and practical knowledge in space science and technology, to enable them to develop their own potential in the field.

17. In the conviction that the establishment of mechanisms and methods to guarantee equitable distribution of the benefits of space exploration and utilization would be achieved through the drafting of norms which would strengthen and develop the principle contained in article 1 of the Treaty of 1967, his delegation had joined in the Brazilian initiative concerning a working paper to be submitted to the Subcommittee during the session containing draft principles on international cooperation in space exploration and utilization.

18. During the general debate, his delegation had already drawn attention to the urgent need to provide effective measures to prevent the danger of growing militarization of outer space in coordination with the Conference on Disarmament and the Committee on the Peaceful Uses of Outer Space. It could only be alarmed by the latest press releases reporting the launching of a nuclear reactor into space and the sending of a military space mission as part of the Strategic Defence Initiative. If those reports were confirmed, the Subcommittee's efforts of 12 years and more regarding the use of nuclear-power sources in outer space and its recent efforts on the new agenda item might be brought to naught, and the work of the Committee on the Peaceful Uses of Outer Space might be seriously compromised.

19. Mr. BABAR (Pakistan) said that when the Secretary-General had invited States members to comment on agenda item 5, pursuant to General Assembly resolution 44/46, his Government had suggested that the Subcommittee should study the following three areas: (a) distinction between space-oriented and earth-oriented activities, and between the "use of outer space" and the "use of objects" for the exploration of resources; (b) drafting of an international agreement to implement the principle of "benefits and interests of all countries" and a basis for equitable sharing of such benefits by all States; (c) promotion of international cooperation, particularly involving developing countries, to enable them to participate in international space programmes.

20. At the Subcommittee's twenty-ninth session, his delegation had said that the discussions should cover safeguarding of rights, national resources and sovereignty of all States, in particular those with very limited space capability, by regulating the remote sensing, communications and other activities of space Powers through the adoption of an appropriate international legal regime.

21. Furthermore, the 1967 Outer Space Treaty, in its first article, had established the basic principle that outer space could be used freely by all States. In other words, its use and exploration were free; all areas of celestial bodies should be freely accessible, and scientific research was free in space (which concept differed from that of freedom of outer space).

(Mr. Babar, Pakistan)

22. It would be helpful for the Subcommittee to attempt to further elaborate those legal concepts in the context of agenda item 5 and to examine the key factors relating to international cooperation in space listed in paragraph 47 of the report on the work of its twenty-ninth session (A/AC.105/457) in particular subparagraphs (c), (d) and (e), with the objective of evolving general principles for such cooperation and identifying the areas in which it could be of benefit to all States.

23. In conclusion, his delegation had noted with great interest the proposals outlined by the representatives of Brazil and Argentina, which it considered very positive in approach and content.

24. Mr. FERRAZZANI (European Space Agency) reviewed the space cooperation activities conducted by ESA, in particular its participation in the launching of the Hubble space telescope by NASA, the launching of the Ulysses space probe and conclusion of a cooperation agreement with the Soviet Union, which would be followed by the signing of a cooperation agreement with the Hungarian Government and the establishment of cooperation with several central and Eastern European countries.

25. Furthermore, ESA planned to launch the first "ERS 1" satellite in May 1991 under its Earth observation and environment programme. That satellite, equipped with radar enabling it to gather data day and night whatever the cloud cover, would be particularly useful in tropical regions, where almost permanent cloud cover appreciably limited the effectiveness of other Earth observation equipment. An ERS 2 satellite should be launched in 1994 and the launch of the first polar platform equipped with the same instrumentation as the ERS satellites was planned for 1997.

26. The European Space Agency would welcome the establishment of close coordination among all countries with satellite launching capability, and believed it was essential that all data thus obtained should be utilized for the benefit of all countries, particularly developing countries, which might need it most. Accordingly, ESA was closely coordinating its activities with those of the Commission of the European Communities, particularly given the prospect of establishing a European environmental agency. Its "TREES" project for radar surveillance of tropical forests should be viewed in that context. It was also making every effort to assist countries, upon request, to better utilize that new radar technology.

27. In addition, ESA had concluded cooperation agreements with FAO, had organized or assisted with training courses in Mexico, Chile, Brazil, Morocco and India, and had made available to the Asian Institute of Technology in Bangkok the services of a radar technology specialist. It also planned to conclude cooperation agreements with several countries for the establishment of workstations which would enable those countries to process satellite data on location and to utilize it directly for their own needs. Those workstations would facilitate the implementation of pilot projects demonstrating the benefits and uses of instruments on board the ERS satellite.

(Mr. Ferrazzani)

28. Finally, ESA had established a European centre for space law for the purpose of studying and teaching space law in Europe, inter alia, by encouraging exchanges among jurists, executives and economists and also university research in some fields.

29. Mr. BOYER (France), while concurring with the representative of Argentina regarding the importance of cooperation agreements in outer space activities, said that it was none the less necessary to be realistic. Although he did not see the absolute necessity of making the international cooperation regime uniform, he remained open, in principle, to any proposal in a spirit of cooperation and progress.

30. Mr. GONZALEZ (Chile) requested the ESA representative to provide details on the structure, means of operation and any other information on the European centre for space law which could be useful to the countries of other regions.

31. The CHAIRMAN said that the Subcommittee had completed its consideration of agenda item 5.

The meeting rose at 11.45 a.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirtieth session

SUMMARY RECORD OF THE 546th MEETING

Held at Headquarters, New York,
on Friday, 5 April 1991, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

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The elaboration of draft principles relevant to the use of nuclear power sources in outer space, with the aim of finalizing the draft set of principles

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The meeting was called to order at 10.45 a.m.

THE ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE, WITH THE AIM OF FINALIZING THE DRAFT SET OF PRINCIPLES

1. The CHAIRMAN, introducing agenda item 3, reviewed the work done thus far: with regard to the Legal Subcommittee, the report of the Chairman of the Working Group on agenda item 3 was contained in annex I of the report of the Subcommittee on the work of its twenty-ninth session (A/AC.105/457) and, in the body of the report, the question was dealt with in section I. That document also contained various working papers submitted on the topic. Further progress had been made during the latest session of the plenary Committee on the Peaceful Uses of Outer Space, whose work on the subject was outlined in paragraphs 100 to 111 and 142 (a) of its report (A/45/20). At that session of the Committee, the delegations of Canada and the Federal Republic of Germany had submitted a working paper on nuclear power sources (A/AC.105/C.2/L.154/Rev.7), contained in annex II to the Committee's report. The question had also been considered in the Scientific and Technical Subcommittee in February and March 1991, and the discussions were summarized in section IV of that Subcommittee's report (A/AC.105/483).

2. The General Assembly, in resolution 45/72, had recommended that the Legal Subcommittee, at its thirtieth session, taking into account the concerns of all countries, particularly those of developing countries, should continue, through its Working Group, the elaboration of draft principles relevant to the use of nuclear power sources in outer space, with the aim of finalizing the draft set of principles. At the opening of the session, the Subcommittee had re-established its Working Group on agenda item 3, under the chairmanship of the representative of Austria, Mr. Winkler.

3. Mr. KHABIROV (Union of Soviet Socialist Republics) observed that the Legal Subcommittee's work on nuclear power sources was stalled. There were several reasons for that, especially the lack of political will on the part of some delegations, but some were also objective reasons, such as the need to give a scientific and technical basis to the legal principles elaborated by the Subcommittee. There had nevertheless been considerable progress in recent years. All the essentials of the basic principles relevant to the use of nuclear power sources in outer space were a subject of general agreement, although some problems remained to be settled.

4. A case in point was the draft principle on notification. The Soviet Union, acting in a spirit of transparency and openness and taking account of the opinion of the overwhelming majority of delegations, had approved it. Better yet, it had proposed including in draft principle 2 a provision to the effect that the launching State should submit to the Secretary-General of the United Nations, within the framework of the procedures established by the Convention on Registration of Objects Launched into Outer Space, supplementary information on cases in which space objects with a nuclear power source on board that were no longer in operation were put into a disposal orbit or any

(Mr. Khabirov, USSR)

orbit other than the one originally assigned to it. As his delegation had stated at the latest session of the Scientific and Technical Subcommittee, it would be useful, for the purpose of better determining the object's area of accidental re-entry into the dense layers of the atmosphere, to draw up a list of data on the parameters of the flight trajectory of objects with a nuclear power source on board before they accidentally re-entered the atmosphere, and to set up a procedure for exchanging such information.

5. Some delegations found the principle of notification superfluous. The Soviet Union disagreed, but noted that others who used to insist on the need for it seemed to have changed their position. That being the case, his delegation would not stand in the way of consensus on draft principle 2.

6. The adoption by consensus of draft principle 3 had fostered the expectation that the elaboration of the draft principles relevant to the use of nuclear power sources could be completed at the current session. His delegation saw no justification for reopening discussion of an already adopted draft principle, but was ready to show flexibility in that respect, and if the Subcommittee as a whole thought it possible to resume consideration of an already adopted draft principle, it would participate. The earlier the better, but if such consideration was resumed at the current session, his delegation would only be able to make provisional comments.

7. The Soviet Union had nothing against periodically making documents on safety assessments of the use of nuclear power sources publicly available, and it was prepared to make public the results of safety assessments covering all relevant phases of the flights of space objects. Moreover, and most importantly, it was ready to do so prior to each launch. It unreservedly supported the proposal that information on how the publicly available assessment might be obtained should be provided to the Secretary-General. With regard to the document itself providing detailed information on the safety assessment, it could be furnished upon request to interested States. As other members of the Subcommittee had pointed out, the documentation in question would be extremely voluminous, containing an assessment of accident probabilities and various parameters allowing for an evaluation of the implications of an accident, and an assessment of the results of calculations, experiments and tests made on nuclear power sources. At the latest session of the Scientific and Technical Subcommittee, the Soviet Union had proposed focusing on defining the contents of the safety assessment to be made public.

8. In an effort to find the best solution to the issues of responsibility and of compensation for damage caused by space objects with a nuclear power source on board, his delegation had proposed considering the possibility of giving binding force to the decisions of a special commission for the settlement of compensation claims. In its view, it would be useful to make draft principle 9 more specific by adopting a special provision stipulating that any disputes should be brought before the International Court of Justice, whose decisions would be considered binding. To judge from the reactions to

(Mr. Khabirov, USSR)

that proposal, not all the members of the Subcommittee were yet ready to accept it. The Soviet Union was nevertheless prepared to seek solutions acceptable to all, on the basis, for instance, of the text of the sixth revision of draft principle 9 submitted by Canada (in document A/AC.105/C.2/L.154/Rev.6).

9. Mr. OBAKPOLOR (Nigeria) recalled that the Committee on the Peaceful Uses of Outer Space had been established in 1959 to ensure that space was utilized exlusively for peaceful purposes and that the benefits of space activities would advance the interests of all nations. With space becoming the next frontier of human activity, it was important to discuss and streamline the methods of exploring space in order to guarantee a high degree of safety. At the current thirtieth session of the Subcommittee, it was appropriate to express satisfaction at what had already been accomplished but, in view of the major technological breakthroughs made in some areas, it had become necessary to institute a legal regime guaranteeing the safety of outer space activities. In that connection, the Legal Subcommittee had made an impressive contribution to the development of international space law, an effort with which his delegation was happy to be associated.

10. The question of nuclear power sources had been discussed exhaustively at previous sessions of the Committee and its two Subcommittees for over a decade, and Nigeria's views on the matter were well known. He admired the systematic approach of both Subcommittees to the issue. At its twenty-seventh session, the Scientific and Technical Subcommittee had made a significant achievement in reaching consensus on the scientific and technical guidelines and criteria for the safe use of nuclear power sources in outer space. Those guidelines were crucial to the question of nuclear power sources aboard satellites, and would facilitate early agreement on the remaining points to be resolved, enabling a new legal regime to be adopted on the issue. At its twenty-ninth session, the Legal Subcommittee had also reached consensus on some of the legal principles relevant to the use of nuclear power sources, based on the earlier recommendations of the Scientific and Technical Subcommittee. His delegation hoped that the finishing touches could be put on the seven remaining draft principles at the current session.

11. Nigeria noted with particular interest the increasing global attention being paid to the question of space debris and the very high probability of a collision in certain orbits between space objects with a nuclear power source on board. Radioactive contamination of the environment was no longer merely a hypothetical matter. As more and more objects carrying nuclear power sources were being launched, and those no longer in operation were abandoned or left in orbit, the chances of a collision could only increase. Not only was the safety of certain orbits thus becoming increasingly threatened, but the safety of the Earth itself.

12. His delegation reiterated that it was important to bear in mind the particularly disadvantageous position of the developing countries, which

(Mr. Obakpolor, Nigeria)

possessed neither the technology needed to monitor any accidential re-entry of a nuclear powered space object nor the clean-up capability in the case of an impact in their territories, and also to safeguard their interests. The least that should be done was to adopt and observe the strictest possible regulations governing the design, manufacture and use of nuclear power sources, in order to ensure minimal levels of radioactive contamination of non-launching States, the highest safety standards for nuclear reactors and for payloads, and appropriate and adequate compensation for all types of damage resulting from accidental or uncontrolled re-entry and impact of space objects or their component parts.

13. While appreciating the efforts made by the space Powers to explore outer space for the benefit of mankind and to make space exploration a meaningful and practical scientific instrument of development, one must be mindful of the danger inherent in the method of exploration. Nuclear power sources were regarded as the most efficient system for space exploration and other interplanetary missions, but there must be strict compliance with the regulations on their use, as his and other delegations had unequivocally affirmed at various sessions of the two Subcommittees. To leave it to individual countries to investigate the issue further without setting a time-limit would be to undermine the integrity and seriousness of the Subcommittee.

14. While recognizing that some of the above-mentioned aspects had been taken into account in the recommendations adopted by both the Scientific and Technical Subcommittee and the Legal Subcommittee, his delegation believed that other draft principles would also have to be equally and fully addressed, notably those on notification of the presence on board a space object of a nuclear power source (draft principle 2), safety assessment (draft principle 4), responsibility (draft principle 8), and compensation (draft principle 9). Those draft principles should be made to reinforce the legal guidelines and criteria for the safe use of nuclear power sources, as a further incentive for strict compliance.

15. Mr. SCHAFER (Germany) apologized for a technical error that had slipped into document A/AC.105/C.2/L.154/Rev.8, which had been circulated to the members of the Subcommittee that morning, and said that because of the error the document did not correctly reflect the outcome of the consultations Germany had held with several other delegations, particularly the Canadian delegation, on the question. He therefore requested that the document should be formally withdrawn. The authors of the document were Germany, Canada, France and Sweden, and it would be reissued and circulated as soon as possible as document A/AC.105/C.2/L.183.

16. On the question of nuclear power sources, he regarded the consensus on six of the 11 draft principles under study as a major success, and hoped that it would spur progress on the other draft principles. Solutions seemed to be taking shape.

(Mr. Schafer, Germany)

17. The safe use of nuclear power sources in space was generating growing interest in Germany, and his delegation had always played an active part in the discussion and elaboration of the draft principles. During the latest session of the plenary Committee, it had, together with the Canadian delegation, submitted working paper A/AC.105/C.2/L.154/Rev.7, whose essential points were the following:

18. Draft principle 1A laid down the definition of the term "launching State" for the purposes of the set of principles. In view of the obligations under draft principle 3, the addition of draft principle 1A was meant to reinforce the confidence-building effect of the whole set of principles. Draft principle 8 reiterated the agreed text contained in the report of the plenary Committee (A/45/20, para. 104), which had felt that the text provided a basis for consensus in the near future. Draft principle 9, on compensation, clarified the issue of reparation for damage caused by accidents involving nuclear power sources. Draft principle 12 reflected the decision taken by the Legal Subcommittee in 1990, namely that the draft principles should be revised in line with the recommendation made by the Scientific and Technical Subcommittee that same year.

19. Lastly, with regard to draft principles 2 and 4 on notification and safety assessment, it had already been proposed that combining those two principles might resolve a number of still outstanding problems. Together with the Canadian, French and Swedish delegations, his own would soon submit a new draft incorporating the main ideas of the old texts of principles 2 and 4, to be published as document A/AC.105/C.2/L.183. The authors of the new draft were retaining the confidence-building aspects of the previous wording, since new draft principle 4 still made it possible, in a crisis, to obtain the necessary information from the relevant sources without delay. As to the safety assessment itself, the authors felt that the text was too long to be issued in full and that a summary covering the essential points would suffice.

20. His delegation would welcome early adoption by the Subcommittee of the remaining draft principles. Given the constructive spirit and atmosphere of cooperation that prevailed in the Committee and its Subcommittees, and bearing in mind their tradition of finding joint solutions to issues affecting all mankind, it was convinced they would be successful.

21. The CHAIRMAN said that the Subcommittee took note of the withdrawal of document A/AC.105/C.2/L.154/Rev.8.

22. Mr. TETU (Canada) reiterated the importance his delegation attached to the final formulation of the draft principles relevant to the use of nuclear power sources in outer space. No effort should be spared to achieve agreement on the pending draft principles, while taking account of all comments made earlier in the Committee and its Subcommittees, especially the Scientific and Technical Subcommittee. That said, he had no desire to reopen discussion on the substance.

23. Mr. PERRI (Brazil) said that he thought it was extremely important to hasten the final formulation of a set of draft principles relevant to the use of nuclear power sources in outer space. Given the size of Brazil's territory, the existence of nuclear power sources and sources of radiation in space were a matter of enormous concern, because there was always the possibility of the unexpected re-entry of a space object with a nuclear power source on board. The Brazilian authorities therefore had to give special attention in such cases to protecting Brazil's environment, population and territory.

24. He had carefully read document A/AC.105/C.2/L.154/Rev.8 submitted by Canada and other delegations, and he had difficulty with much of the wording. To begin with, Brazil, like the Soviet Union, had always favoured not only notification of the launching of a space object with a nuclear power source on board, but notification prior to launching. In the document submitted, however, draft principle 2 and draft principle 4 had been amalgamated, and the very concept of notification had been dropped from the text - which was in fact very different from what Brazil had expected. His Government believed that States launching objects with a nuclear power source on board into outer space had an obligation to specify the date and place of launching, because the pre-orbital phase was the most critical given the danger of a malfunction. Accordingly, neighbouring States must be able to take preventive safety measures and make arrangements in the event of a disaster. Brazil, while prepared to accept an amalgamation of draft principles 2 and 4, still insisted that the concept of the principle of notification should be emphasized, because that principle was one of those that would help build confidence and transparency with regard to international space activities.

25. Moreover, his delegation had some difficulty with accepting the definition of the terms "launching State" or "State launching" in new draft principle 1A, for it did not apply to all situations and circumstances. The launching State, in his delegation's view, was not only the State manufacturing the spacecraft, the one launching it or the one from whose territory it was launched, but all those States together. The definition was not a simple one, especially because more and more launchings were a result of international cooperation, with several countries associated with a launching. The problem was a major one, for it touched on the concept of shared responsibility.

26. That problem led to another, no less important one: compensation. In the text submitted that morning, old paragraphs 3 and 4 of draft principle 9 had been combined into one, and what concerned Brazil was the fact that reference was made to the Convention on International Liability for Damage Caused by Space Objects. Article XXIII of that Convention, however, stated that no provision of the Convention should prevent States from concluding international agreements. Instead of providing for multilateral negotiations in all cases, that was tantamount to directing States towards bilateral negotiations in damage and compensation cases, with all the inequality inherent in that type of negotiation.

(Mr. Perri, Brazil)

27. Although it wished to adopt a set of relevant draft principles as quickly as possible, Brazil could not approve a text that went against its basic interests, and believed that more work needed to be done on the three points that troubled it: notification, the definition of a launching State and compensation, all of them extremely complex issues where simplification should be avoided in the text to be adopted.

28. Mr. NOREEN (Sweden) said that the Subcommittee could not discuss a document that was not before it, and the document referred to by the representative of Brazil had been formally withdrawn. Nevertheless, he wished to clarify a point raised by the representative of Brazil, because the same wording would be found in the next version of the document.

29. It was true that the word "notification" as such did not appear in the new, amalgamated version of principles 2 and 4, but the concept of notification had not thereby been eliminated: indeed, the new draft stipulated that a State launching a space object with a nuclear power source on board should conduct a thorough and comprehensive safety assessment prior to each launch, and it also provided that detailed results of the safety assessment should be made publicly available prior to each launch. That was therefore actually equivalent to prior notification.

30. Mr. BOYER (France), referring to the comment of the representative of Germany that the plenary Committee had felt the current text of draft principle 8 provided a basis for consensus in the near future, pointed out that, as far as his delegation was concerned, that did not mean that there already was consensus on that draft principle.

The meeting rose at 11.40 a.m.